

Notice of Allowability

Application No.

08/416,920

Examiner

Ron Schwadron, Ph.D.

Applicant(s)

MILTENYI ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to the amendment of 9/26/05.
2. ☒ The allowed claim(s) is/are 71-74, 76-92, 97, 98, 100, 102, 105, 110, 111, 114-117, 119-144, 167-208, 212, 213, 215, 217, 220, 225, 226, 244-277, 280-294, 296-333, 335-398, 401-403, 406-428, 431-435.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☒ to Paper No./Mail Date 2/21/97.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____


RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1860-1600

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the specification

a) Page 1, line 1, delete "pending" and replace with — now abandoned --.

b) Page 22, line 21, after "07/291177" add — now abandoned --.

c) Page 22, line 22, after "07/291176" add — now abandoned --.

2. The rejection of claims 71-74,76-107,109-111,114-117,119-144,147-154,160-222, 224-232, 234-240,242-430 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,576,428 for the reasons elaborated in the previous Office Action is withdrawn in view of the terminal disclaimer filed 9/26/2005.

3. The rejection of claims 93-96,101,104,106,107,109,147-149,209-211,216,219,221,222,224,399,400,404,405 under 35 U.S.C. § 102(b) as being clearly anticipated by Kohler et al. for the reasons elaborated in the previous Office Action is withdrawn in view of the cancellation of said claims .

4. The rejection of claims 150,151,162,165,227,230,235,238,334 under 35 U.S.C. 103(a) as being unpatentable over Kohler et al in view of Zuk et al (U.S. Patent No. 4,281,061) for the reasons elaborated in the previous Office Action is withdrawn in view of the cancellation of said claims .

5. The rejection of claims 150-154,160-165,227-230,232,234-238,240,242,243,334,429,430 under 35 U.S.C. 103(a) as being unpatentable over Klug et al. (WO 89/06544) in view of Bell et al. (US Patent 5,114,711) and Zuk et al (U.S. Patent No. 4,281,061) for the reasons elaborated in the previous Office Action is withdrawn in view of the cancellation of said claims .

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6. The rejection of claims 166,231,239 under 35 U.S.C. 103(a) as being unpatentable over Klug et al. (WO 89/06544) in view of Bell et al. (US Patent 5,114,711) and Zuk et al (U.S. Patent No. 4,281,061) as applied to claims 150-154,160-165,227-230,232,234-238,240,242,243,,334,429,430 above, and further in view of Segal (US Patent 4,676,980) for the reasons elaborated in the previous Office action is withdrawn in view of the cancellation of said claims .

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron Schwadron, Ph.D. whose telephone number is 571 272-0851. The examiner can normally be reached on Monday-Thursday 7:30-6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RONALD B. SCHWADRON
PRIMARY EXAMINER
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Ron Schwadron, Ph.D.
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Art Unit 1644